

REMARKS

Reconsideration is respectfully requested. Claims 17-20 are pending.

Withdrawal of the finality of the office action is respectfully believed to be warranted and is requested, for at least the reason noted below with respect to the 35 U.S.C. §112, first paragraph rejection and the 35 U.S.C. §101 rejection. It is respectfully submitted that the applicants have not received the careful examination that they are due.

Claims 17-20 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner alleges that the claims contain subject matter not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors(s), at the time the application was filed, had possession of the claimed invention.

The Examiner states:

"The examiner requests application to point out in the specification as originally filed the subject matter of a telemetry channel for transmitting game event occurrence data outside the Earth to the Earth."

We do not understand why this rejection is made. Page 15, lines 3-14, clearly support this concept. A copy of this page from the specification is attached herewith, as downloaded from

the PAIR system, representing the specification as originally filed, with relevant portions circled and annotations added.

This portion of the specification includes the following sentence:

"Hitting the game fields by the game elements 1 (SV) is a game event occurrence which defines the game outcome. Hitting data is stored in a memory unit on board the SV and transmitted over common telemetry channels to the Earth"

It is also established in the specification (page 10 of specification as originally filed, lines 2 and 3) that SV is a space vehicle which is outside of the Earth by these words:

"mounting a game element 1, a space vehicle (SV), on a carrier rocket (CR), launching and placing in an orbit in cosmic space

It is respectfully submitted that this claim language is clearly supported by the specification to convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

It is respectfully requested that the 35 U.S.C. §112, first paragraph, rejection be withdrawn. Further, it is requested that the finality of this office action be withdrawn, as it is believed that applicants have not received the required examination to which they are entitled, as evidenced by the

above rejection, which is clearly not warranted in view of the specification as filed.

Claims 17-20 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter.

Applicants respectfully traverse.

As an initial matter, the Examiner's rejection appears to be written to reject process claims. Claims 17-20 are device claims.

Further, the Examiner alleges that the claims merely recite the transmission of a game event occurrence data outside the Earth to the Earth. Applicants respectfully disagree.

Claim 17, for example, recites:

a technical facility for registering a game event occurrence, comprising sensors arranged to detect hitting of a game field by a game element, located on board the space vehicle;

Clearly this is more than a mere step of transmission of data. This portion of the claim, which is ignored by the rejection, recites sensors adapted to register a game event, the game event is the hitting of a game field by a game element. The claim is reciting measuring or detecting, and then, later in the claim, transmitting the measured or detected event occurrence. This is well above the threshold of being a statutory invention.

While the claim is submitted to be clear as previously presented, further amendments are made herein to clarify these points. Entry of these amendments is respectfully requested, since as noted above, the applicants believe they are entitled to have the finality of the current action withdrawn.

A game also produces a useful result, the amusement of the player. It is well established that games for amusement have utility. Courts have held that amusement is sufficient utility. For example, *Callison v. Dean*, 21 USPQ 240, 242 (10th Cir 1934) held that "A device which may be used for innocent amusement possess utility."

The Federal Circuit has stated that: "The threshold of utility is not high: An invention is "useful" under section 101 if it is capable of providing some identifiable benefit. See *Brenner v. Manson*, 383 U.S. 519, 534 [148 USPQ 689] (1966); *Brooktree Corp. v. Advanced Micro Devices, Inc.*, 977 F.2d 1555, 1571 [24 USPQ2d 1401] (Fed. Cir. 1992) ("To violate Section 101 the claimed device must be totally incapable of achieving a useful result"); *Fuller v. Berger*, 120 F. 274, 275 (7th Cir. 1903) (test for utility is whether invention "is incapable of serving any beneficial end")." *Juicy Whip, Inc., V. Orange Bang, Inc.* 51 USPQ2d 1700, 1702, Fed Cir 1999.

The Examiner alleges that the claims merely transmit a direct result of computer operation. This is not correct. The claims include recitation of sensors, detecting events of

collision with the sensors and transmitting the detected events. It is not merely a computed number that is transmitted - it is a physically detected event or measurement, which may comprise for example, an impact of space waste, meteorite particles, or both, with sensors on a space vehicle. Applicants' device is not simply for transmitting mere computational results from a computer, but instead is adapted for detecting a physical event and transmitting.

It is respectfully submitted that the claims are directed to statutory subject matter, whether with the amendments submitted herewith, or without.

Claims 17-20 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as allegedly obvious over Kitazawa (JP 05-286500).

Applicants respectfully traverse.

This assertion clearly contradicts to the abovementioned remarks expressed by Examiner in the section 112 and 101 rejections in numbered paragraphs 2 and 4 of the Detailed Action. Really and truly, if the present application can be considered obvious and able to be derived from any other patent, than it is conventionally clear what exactly are the subject matter and limitation of the telemetry channel used in as well as tangible result provided by the device of the present application.

In the action, the details of the patent by Kitazawa are described as in suggestion that Kitazawa is directed to a gaming

process. Applicants respectfully disagree. There is no mention of such substantial distinctions of gaming process in the patent by Kitazawa as "game elements", "game event", "game event assessment means", game fields", "technical facility for registration of game events". The artificial comparison of the patent by Kitazawa with the present application is based on substitution of concepts and breaks the technical essence. It is not quite fair. The device by Kitazawa is dedicated to observation of space debris exactly and clearly has nothing to do with playing a space game. Substantial distinctions of the present application are explicitly described in the specification and have nothing in common with the distinctions of the patent by Kitazawa. The device of the present application and the device of the patent by Kitazawa have different goals, different functions and correspondingly different characteristics.

The device by Kitazawa does not have the exact set of properties necessary for games. It is as apparent as the fact that a bicycle wheel can not be used for the game of roulette, at least without special and very important amendments. Careful consideration of the patent by Kitazawa convincingly shows that it can not be used as a device for playing space games because:

the balloon shaped outer coat of the satellite body, carrying the detecting sensors (on which theoretically may be established a set of the game fields), is made of a flexible material (which is

imperatively important for the Kitazawa design and is directly mentioned in the specification), so it may substantially change its shape in result of a collision with a space particle (as it is directly mentioned in the specification) which would unavoidably result in the change of shapes and mutual attitude of game fields, consequently leading to unequal game conditions for the players wagering in different moments of time, which is clearly unacceptable from the game point of view;

there are no teachings or suggestions of measures in the Kitazawa design allowing to isolate theoretically established game fields from each other, eliminating possible ambiguity of correspondence between game fields and sensors, leading to impossibility to determine precisely to what exact game field corresponds each actuated sensor, which is clearly unacceptable from the game point of view;

there are no teachings or suggestions of measures in the Kitazawa design allowing to ensure actuation of the same sensor for hitting of a space particle in any point of the corresponding game field, which is clearly unacceptable from the game point of view; detection of collisions in the Kitazawa design envisages a gauge of strain in the material of the balloon shaped outer coat

(which is directly mentioned in the specification), which may lead to actuation of many (or all) sensors for one collision with a space particle, which is clearly unacceptable from the game point of view; detection of collisions in the Kitazawa design envisages a gauge of vibration in the balloon shaped outer coat (which is directly mentioned in the specification), which may lead, to actuation of many (or all) sensors for one collision with a space particle, which is clearly unacceptable from the game point of view.

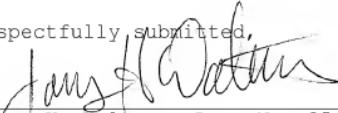
In the present application the applicant has carefully described the design of sensors and game fields to be used for implementation of a gaming process. Namely he has described the sensors and game fields which ensure unambiguous assessment and registration of game events defined as collisions of some game fields with randomly moving game elements in some moments of time. It is implied that the shape and mutual attitude of the game fields are inalterable. Each sensor of the set unambiguously corresponds to its own game field in a way allowing determining precisely to what exact game field each sensor actuated by collision with a space particle corresponds, as well as ensuring its actuation for collision with a space particle in any point of the game field. Then the applicant has described the telemetry channel for transmitting game event occurrence

data, identifying the exact game fields to which the actuated sensors correspond, as well as the exact moments of time when the actuations happened, form outside the Earth to the Earth. It may be conventional telemetry channel similar to any one designed for transmitting data from space to the Earth and having no distinctions. The game event data, transmitted the Earth, are to be awarded to the players in any conventional way, for example, through a net of game terminals, or directly through the mass media, in an arbitrary form, including text, drawings or voice, and then to be checked against preliminary wagered stakes, as it is usual for conventional gambling, for example for racing, boxing or lottery.

The applicant would like to emphasize once more that he has proposed a device for playing a space game whereas the contraposed patent by Kitazawa is dedicated only to observation of space debris and applicant's claimed invention is neither taught, nor suggested by Kitazawa, and cannot be derived from the patent by Kitazawa.

In light of the above noted amendments and remarks, this application is believed in condition for allowance and notice thereof is respectfully solicited. The Examiner is asked to contact applicant's attorney at 503-224-0115 if there are any questions.

Respectfully submitted,

  
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occurrence, including displaying both the processes occurring when the particles hit the detector, and impact traces.

To detect a game event, a working surface of the game event assessment means 3 (SV) is divided into game fields, separate regions 5 (sectors or squares). Hitting the game fields by the game elements 1 (SV) is a game event occurrence which defines the game outcome. Hitting data is stored in a memory unit on board the SV and transmitted over common telemetry channels to the Earth where, after being processed, the data is displayed at the competitors' place, for instance, in a game room or on a tourist ship. The hit display means may be television or radio receivers, computer monitors, etc. The system for displaying the game progress and outcome is located at the competitor's place and adapted to provide visual demonstration, entertainment and fairness of the game. The system can be a ~~conventional display system comprising screens and projectors.~~

This clearly supports the claim language related to telemetry channel for transmitting game event occurrence data from outside the Earth to the Earth.

15 Preparation to conducting the game may be accomplished in the following manner.

Prior to conducting the game, organizers provide and prepare for launching game event assessment means 3, a space vehicle (SV) having a surface equipped with facility 2, panels separated into game fields, for 20 instance, into 38 equally sized fields numbered 1, 2,...38. The means 3 (SV) is put on a carrier rocket and launched into an orbit which will provide a predetermined existence time (for instance, one year). Once the means 3 (SV) has been placed into the orbit, the operation of the space vehicle and terrestrial systems are tested and the game start is 25 announced. Spatial regions with maximum concentration of game elements 1, for instance, small particles originated from explosion of a carrier rocket or other (SPs), can be preliminary selected on the Earth on the basis of survey data, so that to provide the longest residence of the game event assessment means 3 in the region with maximum 30 concentration of space objects, where the means 3 is in flight. Altogether there are about 80,000,000 SPs of 1 mm in diameter, about 10,000,000,000 SPs of 0.1 mm in diameter, and about